

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY) MDL Docket No. 2419
LITIGATION)
)
This Document Relates to:)
All Cases)

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PHARMACY CASES) Master File No. 1:13-MD-2419-FDS
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**ROANOKE GENTRY LOCKE PLAINTIFFS' RENEWED MOTION FOR
MANDATORY OR PERMISSIVE ABSTENTION UNDER 28 U.S.C. § 1334**

The Chapter 11 Trustee for the Estate of New England Compounding Pharmacy, Inc. has filed a renewed motion for entry of an order transferring twenty-two personal injury and wrongful death cases that are pending against only non-debtor defendants. Nineteen of these cases are pending against Image Guided Pain Management, P.C., John M. Mathis, M.D., Robert F. O'Brien, M.D. and Insight Health Corp. They are identified by the following surnames: Artis, Bender, Bradley, Brown, (Patricia S.), Brown (Ronald A.), Courtney, Epperly, Filson, Foutz, Harris, Holbrook, Kalinoski, McFarlane, Shuck, Smith (James Wirt), Smith (Randolph E.), White, Whitlow and Wingate. These parties, commonly represented by the law firm Gentry Locke Rakes & Moore, are referred to as the "Roanoke Gentry Locke Plaintiffs."

The Roanoke Gentry Locke Plaintiffs appear specially, by counsel, for the limited purpose of moving this Court for mandatory abstention under 28 U.S.C. § 1334(c)(2). As more

specifically explained in the memorandum of law filed herewith, abstention is required in these cases because:

- (1) The Roanoke Gentry Locke Plaintiffs have filed a timely motion requesting abstention;
- (2) Their cases involve state-law causes of action;
- (3) Their cases involve only non-core proceedings;
- (4) There is no basis for federal jurisdiction absent the existence of the bankruptcy case; and
- (5) They are pursuing state-court proceedings that can and will be timely adjudicated.

Additionally, there are serious questions as to whether the “related to” jurisdiction of 28 U.S.C. § 1334(b) can be stretched so far as to include these state court cases against nondebtor defendants based solely on inchoate contribution or indemnity claims against the joint tortfeasor debtor.

The Roanoke Gentry Locke Plaintiffs also ask the Court to abstain under 28 U.S.C. § 1334(c)(1).

ROANOKE GENTRY LOCKE PLAINTIFFS

/s/ J. Scott Sexton

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2014, the foregoing was filed through the ECF system which will send electronic notification to the registered participants identified on the Notice of Electronic Filing (NEF).

/s/ J. Scott Sexton